

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, May 21, 2013 at 9:00 a.m. in the Executive Conference Room at City Hall, 800 Municipal Drive, Farmington, New Mexico, in full conformity with the rules, regulations and ordinances of the municipality.

At such meeting the following were present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel (arrived late)

Constituting all the members of the Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Bob Campbell
CITY ATTORNEY	Jay B. Burnham
CITY CLERK	Dianne Fuhrman

MOMENT OF SILENCE FOR CHARLES CLOUTHIER

Mayor Roberts asked for a moment of silence in memory of long-time community activist Charles Clouthier who passed away on Saturday, May 18, 2013.

REQUEST FOR FUNDING FROM THE CONNIE MACK WORLD SERIES ASSOCIATION

Providing background information, City Manager Rob Mayes reminded the Council that the Connie Mack World Series Association ("CMWSA") previously presented to the Council their proposal to renovate the entrance to Ricketts Park through a combined public and private partnership. He explained that midway through construction a question arose as to whether the Prevailing Wage Minimum Wage Act ("PMMWA") should apply since a combination of public and private funds were being used to upgrade and enhance a City-owned facility. As a result, he announced that the State of New Mexico Department of Workforce Solutions issued an opinion on March 18, 2013 that the project constituted a public works project and that PMMWA should apply. Mr. Mayes explained that staff provided copies of City Council meeting minutes showing that the project was conceived and approved by the Council as a private project and stated that the Department of Workforce Solutions rescinded its decision on April 4, 2013. Unfortunately, their decision caused the project to be over budget by \$45,364.69 because the PMMWA was retroactively and actively paid up until the time that the State reversed its decision. Noting that CMWSA is requesting that the City assist with the budget overrun, Mr. Mayes suggested that the \$29,000 previously earmarked in the 408 Fund for an upgrade to the digital messaging system on the scoreboard be reallocated to assist with the prevailing wage decision and stated that if the Council decides to fund the remaining balance of \$16,365, he suggested that it be taken from the 202 Fund cash balance.

Addressing the Council on behalf of CMWSA, Kim Carpenter reported that construction is about 98 percent complete and noted that there was a small amount of contingency funds budgeted for the project but not enough to cover the cost overruns. He announced that CMWSA has had to acquire a \$100,000 bank loan to cover the cost of the budget overruns associated with 1) the State of New Mexico's decision that a new railing with steps and a retaining wall be erected to meet the requirements of the American with Disabilities Act ("ADA"); 2) the contractor's inability to reuse one of the ticket booth windows because it was broken; and 3) the Department of Workforce Solutions' decision concerning the prevailing wage act. In response to inquiry from Mayor Roberts, Mr. Carpenter advised that the digital messaging system on the scoreboard is operating fairly well at this time and confirmed that CMWSA has agreed to postpone upgrading the unit at this time.

Mayor Roberts announced that he is supportive of reallocating the \$29,000 previously earmarked for the digital messaging system to help offset the cost of the prevailing wage act.

In response to inquiry from Councilor McCulloch, Mr. Carpenter reported that the cost of the digital messaging system is between \$30,000 and \$60,000 depending on whether monochrome or full color is selected. He also reported that the project has required San Juan County to provide more paving for the project than what was anticipated and stated that the State also required additional electrical work beyond what was originally proposed by the contractor. As a result, he stated that he does not believe that there will be any funding available to pay for the digital messaging system this year, even with the loan that was taken out through the bank. He also noted that some of the contributors to the project have reneged on their financial contribution because it took too long for construction to commence.

Councilor Sandel voiced frustration with the apparent lack of planning and budget overruns associated with the project and stated that he does not believe that City staff had the authority to appeal the decision of Workforce Solutions without consultation from the Council. In response, Mr. Mayes stated that he believes that he had a responsibility to administratively appeal the decision, noting that had the State not rescinded its decision the PWMWA could have caused a cost increase of over \$100,000 and would have set a precedent for future private projects at public facilities.

Councilor Sandel announced that he disagrees with Mr. Mayes' position, stating that he believes that the prevailing wage act should apply because public and private funds were used to enhance a public facility. However, he stated that he believes that the City should pay the costs associated with the prevailing wage act and to also maintain its commitment to pay \$29,000 towards the cost of the digital messaging system.

Following further discussion and consideration, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to authorize an expenditure of \$45,365 to the Connie Mack World Series by reallocating the \$29,000 earmarked in the 408 Fund and adding \$16,365 from the 202 Fund to pay for the cost overruns associated with the State of New Mexico Department of Workforce Solutions' decision to impose the Prevailing Wage Minimum Wage Act on the Rickett's Park upgrade and enhancement project. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch Jason Sandel
Those voting nay:	Mary M. Fischer

The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

#### OPEN MEETINGS RESOLUTION - REGULAR WORK SESSION DAY, TIME AND PLACE

In accordance with the State Open Meetings Act, City Attorney Jay Burnham presented and read by title a resolution setting and establishing the regular day, time and place for City Council Work Sessions as the first and third Tuesdays of each month at 9:00 a.m. in the Executive Conference Room of the Municipal Building, 800 Municipal Drive, Farmington, New Mexico.

Councilor Fischer questioned whether the Executive Conference Room is too small to accommodate the number of individuals who attend Work Sessions and asked if it might be more appropriate to hold all meetings of the City Council in the Council Chamber. Councilor Sandel concurred and suggested that the proposed resolution simply state that Council Work Sessions will be held at 800 Municipal Drive to give flexibility on whether the Executive Conference Room or Council Chamber is used. City Attorney Jay Burnham discouraged this, stating that he would prefer that the resolution specifically indicate the room that will be used.

In response, City Manager Rob Mayes reported that staff is working to upgrade the audio and visual components of the Executive Conference Room and contended that this room is less formal and more appropriate for

discussing the types of issues that are placed on Work Session agendas.

Following consideration of the proposed resolution, a motion was made by Councilor Darnell, seconded by Councilor McCulloch that said resolution be passed and adopted as presented. The roll was called with the following result:

Those voting aye: Mary M. Fischer  
Dan Darnell  
Gayla McCulloch  
Jason Sandel

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried and the resolution was duly passed and adopted.

#### PROPOSED ORDINANCE INCREASING SANITATION RATES

City Attorney Jay Burnham requested permission to publish notice of intent to consider adoption of a proposed ordinance providing for the annual adjustment of the sanitation rates based upon the Consumer Price Index ("CPI") and fuel costs, pursuant to the terms of the contract with Waste Management of Four Corners. He noted that there is no fuel cost adjustment this year.

In response to comments from Councilor Fischer, Public Works Director Jeff Smaka confirmed that the rate for an additional polycart was incorrect in the existing ordinance but stated that the amount charged to customers was correct. He also assured the Council that the proposed rate of \$2.87 is the correct amount for inclusion in the proposed ordinance.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to direct the City Attorney to publish notice of intent to consider adoption of a proposed ordinance in accordance with State Statutes. The roll was called with the following result:

Those voting aye: Dan Darnell  
Mary M. Fischer  
Gayla McCulloch  
Jason Sandel

Those voting nay: None

The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.

#### PROPOSED ORDINANCE DEALING WITH CAMPAIGN FINANCE REPORTING

Mr. Burnham also introduced a proposed ordinance dealing with campaign finance reporting and requested permission to proceed with publication of a Notice of Intent to Consider said ordinance.

Noting that the proposed ordinance was drafted at the request of the Council, Mr. Burnham announced that it has been patterned after the ordinance adopted by the City of Las Cruces, New Mexico. He pointed out that the crux of the ordinance is to require candidates to report campaign contributions and questioned whether the Council is interested in a provision that makes it mandatory to disclose who paid for a political ad that endorses a candidate (proposed Section 2-3-45).

Mayor Roberts questioned whether the proposed ordinance would require Political Action Committees ("PACs") to report their campaign contributions. In response, Mr. Burnham pointed out that it will be difficult to enforce the ordinance on PACs since the consequence for not filing the required report is the withholding of the certificate of election along with a \$50 per day fee. In response, Councilor Sandel stated that he believes that the Secretary of State's office requires PACs to report their campaign contributions and suggested that the proposed ordinance make reference to this provision.

Councilor Fischer suggested that there be a cap implemented on the amount of money that can be spent on a municipal election. Mayor Roberts agreed, stating that he would like to see consequences included in the

proposed ordinance for violation of the spending cap. Mr. Burnham stated that he thinks it might be unconstitutional to place a financial cap on election campaigns, but stated that he will research the matter.

Mayor Roberts suggested that Section 2-3-47 be amended to clarify that "the clerk shall give each candidate, or a designated representative, the prescribed reporting forms at the time of filing the Declaration of Candidacy" instead of the nominating petition, as required by the City of Las Cruces. He also questioned whether a candidate will have to report personal funds that are used for campaigning purposes and suggested that Section 2-3-48(1)a. be amended to state, "the name and address of the person or organization to whom an expenditure was made or from whom a contribution was received."

With regard to Section 2-3-49(1), Mayor Roberts questioned the proposed reporting dates, stating that he believes it may be more appropriate to require the expenditure and contribution reports to be filed with the City Clerk closer to the date of the election. In response, City Clerk Dianne Fuhrman pointed out that absentee and early voting start several weeks prior to Election Day and suggested that this might be the reasoning behind the proposed 12 days. Mayor Roberts and Councilor Sandel agreed that it might be appropriate to add a couple of more reporting dates in order to have the information available prior to the commencement of absentee and early voting. Lastly, Mayor Roberts suggested that Section 2-3-53 be deleted, noting that he does not believe that there should be any anonymous contributions regardless of the amount. Councilor Sandel agreed, but pointed out that there could be an instance where a candidate is given an envelope of cash money that does not include the names of those who contributed. As a result, it was agreed that an exception should be included in this section in the event the source of the funds cannot be identified.

Councilor McCulloch suggested that Section 2-3-49(4) be amended to require the reporting of expenditures and contributions "every 12 months after an election, so long as any debt remains unpaid by the candidate or special purpose political committee or there is any activity in the account."

Thereupon, a motion was made by Councilor Sandel, seconded by Councilor Fischer to direct the City Attorney to publish notice of intent to consider adoption of a proposed ordinance, as amended, in accordance with State Statutes. The roll was called with the following result:

Those voting aye:	Dan Darnell Mary M. Fischer Gayla McCulloch Jason Sandel
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Those voting nay:	None
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The presiding officer thereupon declared that four Councilors having voted in favor thereof, the said motion carried.

REQUEST FOR PROPOSAL/COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2012 ACTION PLAN AMENDMENT

Purchasing Officer Eddie Smylie announced that proposals for the Community Development Block Grant (CDBG) 2012 Annual Action Plan Amendment (Community Development) opened on April 30, 2013 with eight offerors participating. He reminded the Council that all eight offerors made presentations to the Council at the May 14, 2013 regular City Council meeting and stated that the Council directed that contracts be awarded to Childhaven, Inc. in the amount of \$61,689.17 and Four Corners Foundation in the amount of \$37,730.49.

Thereupon, a motion was made by Councilor Darnell, seconded by Councilor Sandel to award contracts to Childhaven, Inc. in the amount of \$61,689.17 and Four Corners Foundation in the amount of \$37,730.49, and upon voice vote the motion carried unanimously.

REAPPOINTMENTS TO THE PLANNING AND ZONING COMMISSION

Mayor Roberts asked the Council's consideration of the reappointments of Amy Ziesmer, Cheryl Ragsdale and Paul Thompson to the Planning and Zoning Commission (terms to May 2015).

Motion made by Councilor McCulloch, seconded by Councilor Darnell to confirm the reappointments of Amy Ziesmer, Cheryl Ragsdale and Paul Thompson to the Planning and Zoning Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

#### REAPPOINTMENTS TO THE PUBLIC UTILITY COMMISSION

Mayor Roberts asked the Council's consideration of the reappointments of Carol Cloer (District 9) and Amanda Weese (At-Large Alternate) to the Public Utility Commission (terms to October 2015).

Motion made by Councilor McCulloch, seconded by Councilor Darnell to confirm the reappointments of Carol Cloer and Amanda Weese to the Public Utility Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

Referring to some comments that have been made recently concerning the future direction of the Electric Utility System, Councilor Sandel stated that he is concerned that there needs to be more communication between the Council and the members of the Public Utility Commission ("PUC"). Councilor Fischer agreed, stating that she does not believe that the Council and the PUC are being provided the same information, especially with regard to the potential for natural gas generation. In response, Mayor Roberts reminded the Council that the PUC is an advisory commission that makes recommendations to the Council and stated that he believes that it is important for them to have an objective view even if it differs from that of the Council. However, he agreed that it may be beneficial for the Council to have more joint meetings with the PUC where presentations are being made concerning options for future generation, rates, etc.

#### RECESS

The Mayor called a recess at 10:28 a.m.

The Mayor reconvened the meeting at 10:32 a.m. with all members of the Council being present.

#### FISCAL YEAR 2014 BUDGET HEARING #6

Providing opening remarks, City Manager Rob Mayes happily reported that this month's gross receipts tax revenues are more positive than projected and stated that the proposed FY14 budget is now being projected with 11 months of actual revenue in FY13 and one month of projected revenue. He directed the Council's attention to page 6.3 of the agenda materials, noting that the .4 percent increase for municipalities being mandated by PERA (Public Employees Retirement Association) does not take effect until FY15, thereby creating a savings of \$112,118 for the proposed FY14 budget. Furthermore, he pointed out that staff had over-budgeted for the amount needed for Airport Property & Casualty Insurance by \$20,000 and had double-budgeted for postage for an additional savings of \$25,000. He also noted that he has adjusted the expenditures to reflect the amendments directed by the Council at the May 10, 2013 Special City Council Work Session with regard to social service contracts, the Community Relations Commission, San Juan Symphony and the Shiprock Library. Mr. Mayes also pointed out that the Unanticipated/Emergency Contingency line item has been adjusted to reflect a 1.25 percent cash balance of \$167,541.

Mayor Roberts pointed out that the first priority of business for today's discussion is the proposed Capital Improvement Plan ("CIP") and he asked for comments and direction from the Council. Mr. Mayes directed the Council's attention to the CIP tab of the Preliminary FY14 Budget notebook and commended the financial staff for preparing an extensive amount of information for the Council's review.

Councilor Darnell asked that \$235,000 be programmed in the CIP for the purpose of planning for roadway improvements on Pryor Lane. Following brief discussion, staff was directed to include this project on the unfunded list of capital improvement projects for future consideration.

Councilor Fischer questioned whether adequate funding is being budgeted for street resurfacing projects, explaining that she does not believe that the streets are being maintained in good condition. In response, Public Works Director Jeff Smaka stated that it would cost the

City \$5 million a year to put all streets on a 15-year resurfacing cycle. He stated that winter weather and street cuts are the major reasons why roadways deteriorate and reported that 45 miles of minor streets were repaired last year. Councilor Fischer stated that Zuni Street has a significant pothole and Councilor McCulloch reported that the intersection of 20<sup>th</sup> Street and Chilton Avenue also has a pothole.

Councilor Sandel announced that he plans to scrutinize the proposed CIP in the same manner that he did the proposed FY14 budgets for each department during the May 10, 2013 Special City Council Work Session. He initiated discussion by reviewing the projects being proposed in the 201 Fund. Councilor Sandel suggested that staff focus its efforts on improving traffic flow on East Main Street since there is no funding available to complete the extension of Piñon Hills bridge at this time.

In response to inquiry from Mayor Roberts, Mr. Mayes confirmed that staff has budgeted for a new traffic control signal, but explained that the exact location has not been selected because the City's traffic engineering consultant has suggested that a gap analysis be done to determine the necessity for a signal at the intersection of 20<sup>th</sup> Street and Butler Avenue. Mayor Roberts stated that he believes that there should be objective criteria for determining when and where traffic control signals are installed, explaining that he feels uneasy with a suggestive process because it is difficult to implement and defend.

With regard to the 202 Fund, Councilor Sandel questioned whether landscaping at the new regional animal shelter could be postponed. He stated that he believes that it is more important to plan for restrooms at City parks and announced that he is frustrated that this expense keeps getting removed from the CIP. Following brief discussion, it was the consensus of the Council to direct staff to budget \$100,000 for construction of a new restroom at a City park each year. Councilor Sandel also asked that he be provided the location of the seven foot-bridges that are being planned for the riverine trail and requested that the an equipment management/replacement plan be developed and implemented for the Parks Department.

In response to inquiry from Mayor Roberts, Parks, Recreation & Cultural Affairs Director Cory Styron agreed that the landscaping at the Sports Complex could be improved but stated that he believes that there are more critical areas, such as the dirt lot next to the Aquatic Center. However, he assured the Mayor that they are working to resolve the erosion/sinking problems on field 7 of the Sports Complex.

With regard to the 211 Fund, Mr. Styron reported that staff is in the process of formulating a plan to ensure that the park development fees are expended in a timely manner. He also pointed out that the amount budgeted in the 214 Fund for the new animal shelter should be \$190,000 instead of \$4,000.

In response to inquiry from Councilor Sandel, City Engineer Nica Westerling reported that the funding received for the extension of Piñon Hills Bridge is not in jeopardy as long as progress is made on the project every five years, noting that the current deadline is 2020.

Noting that there are no new projects listed in the 408 Fund, Mr. Mayes reminded the Council that the unspent funds must be reallocated every budget year regardless of the stage that the project is in. Councilor Sandel reiterated his frustration that there are no roadway improvements being planned for Gila Street at this time, noting that he thinks that the vacant land behind Animas Valley Mall a potential economic development area that should offer all City services. He also asked staff to consider moving an electrical pole that is located near the entrance to Walgreens on East Main Street because it is a safety hazard.

Responding to inquiry from Councilor Sandel, Public Works Director Jeff Smaka stated that there are no plans at this time to extend infrastructure to those areas of town that have been annexed because the budgets have been cut so drastically due to the downturn in the economy that the focus has been on maintaining the infrastructure that is currently in place. Councilor Sandel stated that he believes it may be necessary to consider the possibility of assessment districts as an option for extending services.

Concerning the 602 Fund, Mr. Mayes pointed out that there will be a deficit in the Golf Fund at the end of FY13 and stated that staff will be scheduling a discussion on Piñon Hills Golf Course for a future City Council agenda. Mayor Roberts announced that he believes that the Golf Enterprise Fund should support itself, but stated that he believes that it is more important to increase play than to constantly raise rates or request subsidy from the General Fund.

RESOLUTION NO. 2013-1467/ADOPTING AN OFFICIAL PRELIMINARY BUDGET FOR FISCAL YEAR 2014

Directing the Council's attention to page 6.3 of the agenda materials, City Manager Rob Mayes reported that the amendments approved by the Council at the May 10, 2013 Special City Council Work Session have been programmed into the proposed FY14 preliminary budget. He requested approval of Resolution No. 2013-1467 adopting an official preliminary budget for Fiscal Year 2014.

In response to inquiry from Councilor Fischer concerning the budgetary cuts that will affect the public, Mr. Mayes reported that staff is considering closing the library one hour earlier, Monday through Thursday; eliminating the formal tennis program at the Sports Complex; closing the Aquatic Center from 12:00 noon to 4:00 p.m. daily; and reducing the hours of operation at the Recreation Center to 44 hours per week. However, he noted that if budgetary constraints require the proposed cuts to be implemented, they will not take effect until next summer.

With regard to the operation of the Red Apple Transit, Mr. Mayes stated that staff is recommending that certain Saturday routes be eliminated (e.g. San Juan College), providing an annual savings of \$42,000. Councilor Fischer contended that staff should consider terminating the contract with First Transit, contending that they are the reason that ridership is not increasing. Assistant City Manager Bob Campbell announced that First Transit is in compliance with the contract, but agreed that staff would prefer for them to offer a better reporting system in order to comply with Federal requirements.

Councilor Sandel asked if staff plans to cut publication of the Blended Zine during FY14. In response, Librarian Karen McPheeters reported that there is no money budgeted at this time to publish an issue in Fiscal Year 2014, but assured him that staff is aggressively pursuing grant funding, noting that it costs approximately \$5,000 per edition to publish. Councilor Sandel also stated that he believes that the teen section of the library needs to be improved in order to attract more participants. In response, Mr. Mayes stated that he will work with Ms. McPheeters to find \$15,000 to \$25,000 in the FY14 budget to focus on enhancing the teen program and to publish two editions of Blended Zine.

Councilor Sandel pointed out that there is a billboard between Aztec and Durango that promotes mountain biking in Gallup, New Mexico. He reiterated his desire to reconsider the funding being given to the Convention & Visitors Bureau to determine whether there is a more innovative approach to marketing and promoting tourism and economic development.

Mayor Roberts initiated discussion concerning the proposed two-percent across-the-board salary increase for employees. He stated that he is supportive of the proposal, but is concerned about the financial impact that this increase will have over time. He stated that he is more supportive of a two percent, nonrecurring payment to employees that is paid out over the course of the fiscal year. Councilor McCulloch agreed.

Mr. Mayes reiterated his position that the City is in the business of providing services and argued that personnel costs are a part of doing business. He strongly urged the Council to consider the proposed two-percent across-the-board salary increase, noting that this is a 62 percent reduction in the cost of implementing the adopted pay plan. He also noted that employees are currently offering the same level of service with a seven percent reduction in staff and stated that there has been a cash surplus every year in the General Fund for the past five years. He also noted that the proposed FY14 budget is balanced and stated that he believes that it is reasonable since there is a real possibility that only a small amount (if any) will be expended from cash reserves.

Councilor Darnell stated that he is supportive of the two-percent salary increase as proposed because employees will be facing an increase in health insurance premiums and in their contribution to PERA.

Councilor Fischer announced that she is not supportive of any salary increase proposal at this time because of the uncertain economic outlook.

Councilor Sandel argued that a one-time payment is, in effect, a decrease in employee salaries during the following year. He supported the same philosophy as Councilor Fischer, but stated that if it is the will of the Council to grant a salary increase, he would prefer that it not be a one-time gift.

There being no further discussion on the matter, Mayor Roberts announced that the Council has not reached a consensus for modifying the proposed salary increase at this time.

Following further discussion and consideration, a motion was made by Councilor Darnell, seconded by Councilor McCulloch to pass and adopt Resolution No. 2013-1467 with an amendment to the 214 Fund to reflect a budget of \$190,000 for the Animal Shelter and the addition of \$100,000 in the 202 Fund for the construction of a restroom in a City park. The roll was called with the following result:

Those voting aye:	Dan Darnell Gayla McCulloch
Those voting nay:	Mary M. Fischer Jason Sandel

The Mayor voted in favor of the motion and declared the motion carried and Resolution No. 2013-1467 was duly passed and adopted as amended.

There being no further business to come before the Council, the meeting was adjourned at 1:05 p.m.

APPROVED this 11<sup>th</sup> day of June, 2013.

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Tommy Roberts, Mayor

SEAL

ATTEST:

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Melody Coyner, Deputy City Clerk